

AMENDED IN SENATE MAY 17, 2012

AMENDED IN ASSEMBLY APRIL 18, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2058

Introduced by Assembly Member Pan
(Principal coauthor: Senator Correa)

February 23, 2012

An act to ~~add Section 22928.5 to the Business and Professions~~ amend Sections 2159.5 and 18108.5 of, and to add Section 18109.5 to, the Elections Code, relating to ~~transportation~~ elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2058, as amended, Pan. ~~Intermodal marine terminals. Voter registration: paid registration activities.~~

Existing law authorizes any person, company, or other organization that complies with specified conditions to agree to pay money or other valuable consideration, on a per-affidavit basis or otherwise, to any person who assists another person to register to vote by receiving the completed affidavit of registration.

This bill would prohibit any person, company, or other organization from agreeing to pay money or other valuable consideration on a per-affidavit basis to any person who assists another person to register to vote by receiving the completed affidavit of registration, would prohibit the receipt of this per-affidavit consideration, and would make conforming changes. A violation of these prohibitions would be a misdemeanor.

Existing law requires an elections official to notify the payor of a person who assists others to register to vote if 3 or more affidavits

submitted by the person assisting do not comply with specified provisions.

This bill would provide that this notification is required when 3 or more affidavits submitted by the person assisting each reflects a violation of one or more of those provisions.

By defining a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law imposes certain limitations on charges that may be imposed by intermodal marine terminals on intermodal motor carriers relative to transactions involving cargo shipped by intermodal transport.~~

~~This bill would require an intermodal marine terminal that imposes certain financial responsibility requirements on an intermodal motor carrier pursuant to the Uniform Intermodal Interchange and Facilities Access Agreement or additional financial responsibility requirements to post a notice to that effect at its gate and online, as specified.~~

~~This bill would also prohibit an intermodal marine terminal from restricting access by intermodal motor carriers to its terminal under specified circumstances.~~

~~This bill would make legislative findings and declarations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2159.5 of the Elections Code is amended
- 2 to read:
- 3 2159.5. Any person, company, or other organization that agrees
- 4 to pay money or other valuable consideration, ~~whether on a~~
- 5 ~~per-affidavit basis or otherwise~~, to any person who assists another
- 6 person to register to vote by receiving the completed affidavit of
- 7 registration, shall do all of the following:
- 8 (a) Maintain a list of the names, addresses, and telephone
- 9 numbers of all individuals that the person, company, or other
- 10 organization has agreed to compensate for assisting others to

1 register to vote, and shall provide to each person receiving that
2 consideration a written statement of that person's personal
3 responsibilities and liabilities under Sections 2138, 2139, 2150,
4 2158, 2159, 18100, 18101, 18103, 18106, 18108, 18108.1, and
5 18108.5. Receipt of the written statement shall be acknowledged,
6 in writing, by the person receiving the consideration, and the
7 acknowledgment shall be kept by the person, company, or
8 organization that agrees to compensate that person. All records
9 required by this subdivision shall be maintained for a minimum
10 of three years, and shall be made available to the elections official,
11 the Secretary of State, or an appropriate prosecuting agency, upon
12 demand. As an alternate to maintaining the records required by
13 this subdivision, the records may be filed with the county elections
14 official, who shall retain those records for a minimum of three
15 years. The county elections official may charge a fee, not to exceed
16 actual costs, for storing records pursuant to this subdivision.

17 (b) Not render any payment or promised consideration unless
18 the information specified in Section 2159 has been affixed
19 personally on the affidavit in the handwriting of the person with
20 whom the agreement for payment was made.

21 (c) At the time of submission of affidavits to elections officials,
22 identify and separate those affidavits into groups that do and that
23 do not comply with the requirements of Sections 2150 and 2159.
24 A signed acknowledgment shall be attached to each group of
25 affidavits identifying a group as in compliance with Sections 2150
26 and 2159, and a group as not in compliance with either Section
27 2150 or 2159, or both.

28 (d) Failure to comply with this section shall not cause the
29 invalidation of the registration of the voter *unless the registration*
30 *of the voter is found to be invalid pursuant to any other section of*
31 *this division.*

32 *SEC. 2. Section 18108.5 of the Elections Code is amended to*
33 *read:*

34 18108.5. (a) Any person, company, or other organization that
35 agrees to pay money or other valuable consideration, ~~whether on~~
36 ~~a per-affidavit basis or otherwise,~~ to any person who assists another
37 person to register to vote by receiving the completed affidavit of
38 registration who fails to comply with Section 2159.5, is guilty of
39 a misdemeanor, and shall be punished by a fine not exceeding one
40 thousand dollars (\$1,000), or by imprisonment in the county jail

1 not exceeding six months or, when the failure to comply is found
2 to be willful, not exceeding one year, or by both *that fine and*
3 *imprisonment*.

4 (b) Any person, company, or other organization that agrees to
5 pay money or other valuable consideration, ~~whether on a~~
6 ~~per-affidavit basis or otherwise~~, to any person who assists another
7 person to register to vote by receiving the completed affidavit of
8 registration, upon a third or subsequent conviction, on charges
9 brought and separately tried, for failure to comply with Section
10 2159.5 shall be punished by a fine not exceeding ten thousand
11 dollars (\$10,000), or by imprisonment in the county jail not to
12 exceed one year, or by both *that fine and imprisonment*.

13 (c) An elections official shall notify any person, company, or
14 other organization that agrees to pay money or other valuable
15 consideration, ~~whether on a per-affidavit basis or otherwise~~, to
16 any person who assists another person to register to vote by
17 receiving the completed affidavit of registration, ~~that~~ *when three*
18 *or more affidavits of registration submitted by a person who*
19 *assisted another others to register to vote do not comply with each*
20 *reflects a violations of one or more of Sections 18100, 18101,*
21 *18103, or and 18106.* The elections official may forward a copy
22 of each of the noncomplying affidavits of registration to the district
23 attorney, who may make a determination whether probable cause
24 exists to believe that a violation of *this division or any other law*
25 *has occurred*.

26 (d) This section shall not apply to any public agency or its
27 employees that is designated as a voter registration agency pursuant
28 to the National Voter Registration Act of 1993 (42 U.S.C. Sec.
29 1973gg), when an elector asks for assistance to register to vote
30 during the course and scope of the agency's normal business.

31 *SEC. 3. Section 18109.5 is added to the Elections Code, to*
32 *read:*

33 *18109.5. (a) Any person who offers to pay or pays money or*
34 *other valuable consideration to another person, either directly or*
35 *indirectly, on a per-affidavit basis to assist another person to*
36 *register to vote by receiving the completed affidavit of registration*
37 *is guilty of a misdemeanor.*

38 *(b) Any person who receives money or other valuable*
39 *consideration, either directly or indirectly, on a per-affidavit basis*

1 to assist another person to register to vote by receiving the
2 completed affidavit of registration is guilty of a misdemeanor.

3 (c) Nothing in this section shall be construed to prohibit payment
4 for assisting another person to register to vote by receiving the
5 completed affidavit which is not, either directly or indirectly, on
6 a per-affidavit basis.

7 SEC. 4. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

16 SECTION 1. ~~The Legislature finds and declares that intermodal~~
17 ~~motor carriers are subject to additional risks, and subject others to~~
18 ~~additional risks, when operating within an intermodal marine~~
19 ~~terminal as a result of the movement of intermodal marine~~
20 ~~equipment, the nature of intermodal marine terminal operations,~~
21 ~~and the diversity of hazardous cargoes handled at an intermodal~~
22 ~~marine terminal.~~

23 SEC. 2. ~~Section 22928.5 is added to the Business and~~
24 ~~Professions Code, to read:~~

25 ~~22928.5. (a) If an intermodal marine terminal requires an~~
26 ~~intermodal motor carrier to comply with the minimum financial~~
27 ~~responsibility requirements of the Uniform Intermodal Interchange~~
28 ~~and Facilities Access Agreement, or any other agreement that~~
29 ~~secures equipment interchanges rights of both an intermodal marine~~
30 ~~equipment provider and an intermodal motor carrier, in order to~~
31 ~~gain access to the terminal, then the terminal shall post a notice at~~
32 ~~its gate and online.~~

33 ~~(b) If an intermodal marine terminal requires intermodal motor~~
34 ~~carriers to comply with minimum financial responsibility~~
35 ~~requirements in addition to those described in subdivision (a) in~~
36 ~~order to gain access to the terminal, then the terminal shall post a~~
37 ~~notice of any additional minimum financial responsibility~~
38 ~~requirements at its gate and online.~~

1 ~~(e) Nothing in this section shall be construed as requiring any~~
2 ~~intermodal marine terminal to require any intermodal motor carrier~~
3 ~~to provide additional minimum financial responsibility.~~

4 ~~(d) An intermodal marine terminal operator shall not restrict~~
5 ~~access of an intermodal motor carrier to an intermodal marine~~
6 ~~terminal under either of the following circumstances:~~

7 ~~(1) The intermodal motor carrier is using the dispute resolution~~
8 ~~process contained in the Uniform Intermodal Interchange and~~
9 ~~Facilities Access Agreement to contest a charge, fee, or fine,~~
10 ~~including a charge for maintenance and repairs imposed by the~~
11 ~~intermodal marine terminal, as long as the dispute resolution~~
12 ~~process is ongoing.~~

13 ~~(2) A specific vehicle or driver is unable to provide proof of~~
14 ~~compliance with minimum levels of financial responsibility;~~
15 ~~provided that the intermodal motor carrier is otherwise in~~
16 ~~compliance with subdivision (a) and, to the extent applicable,~~
17 ~~subdivision (b).~~

18 ~~(e) An intermodal marine terminal may choose to end any~~
19 ~~additional minimum financial responsibility requirement at any~~
20 ~~time and for any reason. In that case, the intermodal marine~~
21 ~~terminal operator shall post a notice at its gate and online to that~~
22 ~~effect.~~

23 ~~(f) For purposes of this section, “post a notice at its gate and~~
24 ~~online” means that written notification is posted at the terminal~~
25 ~~gate used by intermodal motor carriers and electronic notification~~
26 ~~is posted on the terminal’s Internet Web site and is accessible to~~
27 ~~the public.~~